

## WETLANDS COUNCIL

### MINUTES

April 8, 2008

---

The Wetlands Council met on Tuesday, April 8, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Chairman Lawrence E. Morse, John S. Cobb, Paul Dionne, Chip Kimball, Dennis Lydon, Steve Perry, Seth Prescott, Jack Ruderman, Russ St. Pierre and David Thompson

**Absentees:** Sharon Champagne, Thomas Chrisenton, and Thomas Sloan

Also present were: Amy Samson, Council Appeals Clerk and Carolyn Guerdet, Council Clerk

The meeting was called to order by Chairman Larry Morse at 9:10 with a quorum present.

The hearing scheduled for today will be postponed to a later date.

#### 1. Approval of Minutes of March 11, 2008 Council Meeting

*A motion was made by Councilor Cobb, second by Councilor Dionne to approve the March 11, 2008 minutes. Motion was voted unanimously.*

#### 2. Status of Appeals

- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817  
As a quorum was not present of members that have heard the appeal it was unanimously decided to keep it tabled until the May 13, 2008 meeting. Collis Adams provided the members with a photo copy of the Superior Court Ruling.
- Docket No. 08-09 WtC – John Goode, et al Appeal: WB #2007-00933  
Timely filed.

Vice Chairman Cobb presides at this time.

*A motion was made by Councilor Kimball to accept this Appeal, second by Councilor Thompson. Motion was voted unanimously. Chairman Morse abstained from this vote.*

Councilor Lydon will preside as Hearing Officer.

Chairman Morse returns as Council chair.

- Docket No. 08-13 WtC – Jeffrey Costura Appeal: WB #2007-01416  
Timely filed.

***A motion was made by Councilor Thompson to accept this Appeal, second by Councilor Cobb. Motion was voted unanimously.***

Councilor Lydon will preside as Hearing Officer.

- Docket No. 08-16 WtC – Jumanna Stark Appeal: WB #2007-00473  
Timely filed.

***A motion was made by Councilor Kimball to accept this Appeal, second by Councilor Thompson. Motion was voted unanimously.***

Councilor Lydon will preside as Hearing Officer.

It was decided by the Council to hold the Pre Hearing Conferences at hour and a half intervals. There is a designated meeting room on Mondays so will continue to hold them on that day.

- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796  
Pre-Hearing Conference scheduled for May 12, 2008 at 9 AM. Presiding Officer is Chairman Morse.
- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473  
A Motion to Extend Time for Record Filing was filed by DES on March 13, 2008. This motion was granted at the March 17, 2008 PHC. Pre-Hearing Conference is rescheduled for April 21, 2008 at 11 AM. Presiding Officer is Chairman Morse.
- Docket No. 07-28 WtC – Concord Country Club: WB #2005-00474  
At the Pre-Hearing Conference on March 3, 2008, the parties requested the proceedings to be stayed for 30 days pending settlement discussions. If a withdrawal is not submitted by the appellant, an appeal hearing will be scheduled. Collis Adams reported they are still negotiating.
- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460  
Pre-Hearing Conference was rescheduled for April 21, 2008 at 9 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-01 WtC – Town of Newington Conservation Commission: WB #2007-0829-01  
At the March 17, 2008 PHC, the parties discussed the possibility of filing an Assented-To Motion referencing Env-WtC 206.01 (b). If the motion is not filed, the PHC will reconvene on April 14, 2008 at 1:00 p.m. Presiding Officer is Chairman Morse.
- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174  
A Hearing is scheduled for May 13, 2008. Presiding Officer is Councilor Kimball.
- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705  
At the PHC on April 7, 2008, the parties agreed that a hearing needed to be scheduled. A hearing is scheduled for June 10, 2008 – time TBD. Presiding Officer is Councilor Kimball.
- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624  
At the PHC on April 7, 2008, the parties agreed that a hearing needed to be scheduled. A hearing is scheduled for June 10, 2008 – time TBD. Presiding Officer is Councilor Kimball.

- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926  
Pre Hearing Conference scheduled for May 12, 2008 at 11 A.M. Presiding Officer is Chairman Morse.
- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769  
Proceedings are stayed. Status inquiry letter to be sent.
- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294  
Settlement discussions continue. Status inquiry letter to be sent.
- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654  
Proceedings are stayed, negotiations continue. Status inquiry letter to be sent.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581  
Proceedings are stayed. Status inquiry letter to be sent.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291  
Proceedings are stayed. Appellant should be withdrawing their appeal.
- Docket No. 07-18 WtC – Tom McKay-Hi Spot Condominium: WB #2007-00321  
Permit has been issued. Appellant should be withdrawing their appeal.
- Docket No. 07-22 WtC – Claire Salois: WB #2006-03223  
Ms. Salois will withdraw the appeal. To date, a withdrawal has not been filed.
- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494  
Decision and Order needs to be written and sent out regarding the Request to Expand the Record by the end of this week.
- Docket No. 07-25 WtC – Ross Realty Trust & Tippicanoe Campground Appeal:  
WB #2007-00321  
On March 21, 2008 a withdrawal of this appeal was filed.
- Docket No. 08-03 WtC – David Johnson-Johnqis Realty LLC Appeal: WB #2006-00700  
The appeal was received insufficient. The parties still have time to resubmit a sufficient appeal.
- Docket No. 08-12 WtC – Bill K. Lau Appeal: WB #2007-00398  
Resubmission of the appeal was received on April 4, 2008. This will be voted on at the next meeting in May.  
A Motion to Summarily Dismiss by DES was received and distributed at this Council meeting.

A notice will be sent to the following dockets that if the Council has not received a withdrawal request from them prior to the next meeting the appeal will be formally dismissed: 07-14 WtC, 07-18 WtC, and 07-22 WtC.

### **3. Wetlands Bureau Update**

## Wetlands Council Meeting Minutes

April 8, 2008

Page 4

Collis Adams, Administrator, shared that there is a Friday deadline for submission of a grant proposal to EPA for Wetland Program Development Grant for \$300,000. It will provide monies to support the enforcement section.

### Legislative Update:

HB 1471 – Public hearing discussed statutory time frame for applicants to provide a response to DES from 120 days to 60 days. Also refund 25% of application fee if DES doesn't take action within the statutory time frames. May compromise at 90 days.

HB 1579 – originally to establish a 75' setback for wetlands. Did not go forward but established a study commission to look at issues related to wetlands in general and indirect impacts to wetlands. This has now turned into a LCHIP funding bill.

SB 435 – deals with indirect impacts was sent to interim study.

SB 352 – brings shoreland protection act appeals to the Wetlands Council instead of the Water Council. Chairman Morse testified at the hearing on behalf of the Council in support of this bill. This will go into effect 60 days from which it is signed. The Council will need to look at Waste Council and Water Council Rules for guidance as the Wetlands rules will need revision. Also work with Gretchen with respect to the rulemaking.

HB 1151 – instream flow bill with amendment attached regarding the Shoreline Protection Act. The amendment is for timeline and when projects are vested.

Collis then reviewed the rulemaking that is continuing.

- A) Vernal Pools rules went to public hearing and the comments have been sent to JLCAR. JLCAR's first public hearing is on April 11<sup>th</sup>.
- B) Stream crossing rules work group has the draft administrative rules. Discussion is now focused around mitigation – if and when required and at what level.
- C) Dock rules are being revised to simplify the process for issuing permits and when permits would be appropriate. Want to standardize the dock process. Still just internal.

#### 4. Old Business -

#### 5. Other Business -

#### 6. Next Meeting - May 13, 2008.

#### 7. Adjournment -

The meeting was adjourned at 9:55 A.M.